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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/696,517	10/29/2003	Prasad V. Gade	DP-304939	6380

22851 7590 07/13/2007
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EXAMINER	
MANCHO, RONNIE M	
ART UNIT	PAPER NUMBER
3663	

MAIL DATE	DELIVERY MODE
07/13/2007	PAPER

Please find below and/or attached an Office communication concerning this application or proceeding.

The time period for reply, if any, is set in the attached communication.

Office Action Summary	Application No.	Applicant(s)	
	10/696,517	GADE ET AL.	
	Examiner	Art Unit	
	Ronnie Mancho	3663	

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

1)☒ Responsive to communication(s) filed on *13 April 2007*.

2a)☒ This action is **FINAL**. 2b)☐ This action is non-final.

3)☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

4)☒ Claim(s) *24-30 and 38-45* is/are pending in the application.

4a) Of the above claim(s) _____ is/are withdrawn from consideration.

5)☐ Claim(s) _____ is/are allowed.

6)☒ Claim(s) *24-30 and 38-45* is/are rejected.

7)☐ Claim(s) _____ is/are objected to.

8)☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

9)☐ The specification is objected to by the Examiner.

10)☐ The drawing(s) filed on _____ is/are: a)☐ accepted or b)☐ objected to by the Examiner.

Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).

Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).

11)☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

12)☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).

a)☐ All b)☐ Some * c)☐ None of:

1.☐ Certified copies of the priority documents have been received.

2.☐ Certified copies of the priority documents have been received in Application No. _____.

3.☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

1) ☒ Notice of References Cited (PTO-892)
2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
3) ☐ Information Disclosure Statement(s) (PTO/SB/08) Paper No(s)/Mail Date _____.
4) ☐ Interview Summary (PTO-413) Paper No(s)/Mail Date. _____.
5) ☐ Notice of Informal Patent Application
6) ☐ Other: _____.

DETAILED ACTION

Double Patenting

1. The nonstatutory double patenting rejection is based on a judicially created doctrine grounded in public policy (a policy reflected in the statute) so as to prevent the unjustified or improper timewise extension of the "right to exclude" granted by a patent and to prevent possible harassment by multiple assignees. A nonstatutory obviousness-type double patenting rejection is appropriate where the conflicting claims are not identical, but at least one examined application claim is not patentably distinct from the reference claim(s) because the examined application claim is either anticipated by, or would have been obvious over, the reference claim(s). See, e.g., *In re Berg*, 140 F.3d 1428, 46 USPQ2d 1226 (Fed. Cir. 1998); *In re Goodman*, 11 F.3d 1046, 29 USPQ2d 2010 (Fed. Cir. 1993); *In re Longi*, 759 F.2d 887, 225 USPQ 645 (Fed. Cir. 1985); *In re Van Ornum*, 686 F.2d 937, 214 USPQ 761 (CCPA 1982); *In re Vogel*, 422 F.2d 438, 164 USPQ 619 (CCPA 1970); and *In re Thorington*, 418 F.2d 528, 163 USPQ 644 (CCPA 1969).

A timely filed terminal disclaimer in compliance with 37 CFR 1.321(c) or 1.321(d) may be used to overcome an actual or provisional rejection based on a nonstatutory double patenting ground provided the conflicting application or patent either is shown to be commonly owned with this application, or claims an invention made as a result of activities undertaken within the scope of a joint research agreement.

Effective January 1, 1994, a registered attorney or agent of record may sign a terminal disclaimer. A terminal disclaimer signed by the assignee must fully comply with 37 CFR 3.73(b).

2. Claims 24-30, 38-45 rejected on the ground of nonstatutory obviousness-type double patenting as being unpatentable over claims 1-22 of U.S. Patent No. 6754571. Although the conflicting claims are not identical, they are not patentably distinct from each other because the claims of US 6754571 read on claims 24-30, 38-45 of the invention.

Claim Rejections - 35 USC § 112

3. The following is a quotation of the first paragraph of 35 U.S.C. 112:

> The specification shall contain a written description of the invention, and of the manner and process of making and using it, in such full, clear, concise, and exact terms as to enable any person skilled in the art to which it pertains, or with which it is most nearly connected, to make and use the same and shall set forth the best mode contemplated by the inventor of carrying out his invention.

4. Claims 24-30, 38-45 are rejected under 35 U.S.C. 112, first paragraph, as failing to comply with the enablement requirement. The claim(s) contains subject matter which was not described in the specification in such a way as to enable one skilled in the art to which it pertains, or with which it is most nearly connected, to make and/or use the invention.

In amended claims 24, 38, and 45, it is not clear what all is meant and encompassed by the phrase, "maximum damping of relative acceleration across the mount". Applicant's specification pages 5, 6, etc disclose, damping vibration of an engine or a transmission. Applicant does not provide a requisite degree for determining the claimed "maximum damping of relative acceleration".

The rest of the claims are rejected for depending on a rejected base claim.

5. The following is a quotation of the second paragraph of 35 U.S.C. 112:

> The specification shall conclude with one or more claims particularly pointing out and distinctly claiming the subject matter which the applicant regards as his invention.

6. Claims 24, 38, and 45 are rejected under 35 U.S.C. 112, second paragraph, as being indefinite for failing to particularly point out and distinctly claim the subject matter which applicant regards as the invention.

7. In claims 24, 38, and 45, the applicant recites "maximum damping of". The term "maximum" is a relative term. Thus the limitation "maximum damping of" is indefinite.

The rest of the claims are rejected for depending on a rejected base claim.

Claim Rejections - 35 USC § 102

8. The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

9. Claims 24-30, 38-45 are rejected under 35 U.S.C. 102(b) as being anticipated by Takano et al (5060919).

Regarding claim 24, Takano et al (abstract; fig. 1; col. 1, lines 58 to cols. 2, 3, 4) discloses a method of controlling a hydraulic mount (fig. 1, col. 1, line 57 to col. 2, line 34) between an object (i.e. engine) and a base (chassis of vehicle; col. 8, lines 8-22), the object having a bounce resonance frequency, comprising:

calibrating at least one tunable parameter (viscosity of fluid tuned to cope with vibration, col. 8, lines 8-22) of a control system of the mount (damper, fig. 1) based on the bounce resonant frequency (col. 8, lines 8-22) of the object (i.e. engine);

generating a first acceleration signal indicative of an acceleration of the object (col. 8, lines 42-53);

generating a second acceleration signal indicative of an acceleration of the base (col. 8, lines 42-53);

determining a relative acceleration across the mount based on the first and second acceleration signals (col. 8, lines 45-65);

generating a control signal responsive to the relative acceleration based on the at least one tunable parameter (col. 7, lines 50 to col. 8, line 3, lines 45-53); and

controlling the flow of MR mount fluid in the mount responsive to the control signal such that maximum damping (see optimized, col. 8, lines 22-33) of the relative acceleration across the mount occurs at a predetermined band of frequencies.

Regarding claim 25, Takano et al (abstract; fig. 1; col. 1, lines 58 to cols. 2, 3, 4) discloses the method of claim 24 wherein the predetermined band of frequencies occurs at and around the resonance bounce frequency of the object (col. 8).

Regarding claim 26, Takano et al (abstract; fig. 1; col. 1, lines 58 to cols. 2, 3, 4) discloses the method of claim 25 wherein calibrating at least one tunable parameter comprises tuning an objective function obtained by a sensitivity function (col. 8).

Regarding claim 27, Takano et al (abstract; fig. 1; col. 1, lines 58 to cols. 2, 3, 4) discloses the method of claim 326 wherein calibrating at least one tunable parameter comprises tuning a weighting function (col. 8).

Regarding claim 28, Takano et al (abstract; fig. 1; col. 1, lines 58 to cols. 2, 3, 4) discloses the method of claim 27 wherein the weighting function is limited to the resonance bounce frequency (col. 8).

Regarding claim 29, Takano et al (abstract; fig. 1; col. 1, lines 58 to cols. 2, 3, 4) discloses the method of claim 28 wherein calibrating at least one tunable parameter comprises tuning an associated scalable factor (col. 8).

Regarding claim 30, Takano et al (abstract; fig. 1; col. 1, lines 58 to cols. 2, 3, 4) discloses the method of claim 29 wherein the associated scalable factor is used to increase and decrease the magnitude of the weighting function (col. 8).

Regarding claim 38, Takano et al (abstract; fig. 1; col. 1, lines 58 to cols. 2, 3, 4) discloses a system for controlling a hydraulic mount (fig. 1, col. 1, line 57 to col. 2, line 34) between an object (i.e. engine) and a base (vehicle chassis), the object having a bounce resonance frequency, the system comprising:

Means for modifying at least one tunable parameter (viscosity of fluid tuned to cope with vibration, col. 8, lines 8-22) of a control system of the mount (cols. 8, 9) based on the bounce resonant frequency (cols 8, 9) of the object (i.e. engine);

Means for generating a first acceleration signal indicative of an acceleration of the object (col. 8, lines 42-53);

Means for generating a second acceleration signal indicative of an acceleration of the base (col. 8, lines 42-53);

Means for determining a relative acceleration across the mount based on the first and second acceleration signals (col. 8, lines 45-65);

Means for generating a control signal responsive to the relative acceleration based on the at least one tunable parameter (col. 7, lines 50 to col. 8, line 3, lines 45-53); and

Means for controlling the flow of MR mount fluid in the mount responsive to the control signal such that maximum damping (see optimized, col. 8, lines 22-33) of the relative acceleration across the mount occurs at a predetermined band of frequencies.

Regarding claim 39, Takano et al (abstract; fig. 1; col. 1, lines 58 to cols. 2, 3, 4) discloses the method of claim 38 wherein the predetermined band of frequencies occurs at and around the resonance bounce frequency of the object (i.e. engine col. 8).

Regarding claim 40, Takano et al (abstract; fig. 1; col. 1, lines 58 to cols. 2, 3, 4) discloses the method of claim 39 wherein the means for tuning at least one tunable parameter comprises an objective function obtained by a sensitivity function (see sensor s 90, 92, fig. 1).

Regarding claim 41, Takano et al (abstract; fig. 1; col. 1, lines 58 to cols. 2, 3, 4) discloses the method of claim 40 wherein the means for tuning at least one tunable parameter comprises a weighting function (cols. 3, 8, 9) .

Regarding claim 42, Takano et al (abstract; fig. 1; col. 1, lines 58 to cols. 2, 3, 4) discloses the method of claim 41 wherein the weighting function is based on the resonance bounce frequency (col. 8).

Regarding claim 43, Takano et al (abstract; fig. 1; col. 1, lines 58 to cols. 2, 3, 4) discloses the method of claim 42 wherein the means for tuning at least one tunable parameter comprises an associated scalable factor (col. 8).

Regarding claim 44, Takano et al (abstract; fig. 1; col. 1, lines 58 to cols. 2, 3, 4) discloses the method of claim 43 wherein the associated scalable factor is used to increase and decrease the magnitude of the weighting function (cols. 3, 8, 9).

Regarding claim 45, Takano et al (abstract; fig. 1; col. 1, lines 58 to cols. 2, 3, 4) discloses a system for a hydraulic mount positioned between a vibrating object (i.e. engine) and a base (vehicle chassis), said vibrating object having a bounce resonance frequency, the system comprising:

Means for generating a first acceleration signal (col.1, lines 39-54; col. 3, lines 33 to col. 4) indicative of an acceleration of said object;

Means for generating a second acceleration signal (col.1, lines 39-54; col. 3, lines 33 to col. 4) indicative of an acceleration of said base;

Means for determining 86 (col. 3, line 25) a relative acceleration (vibration, col. 3, lines 33-42) across the mount (col. 2, lines 7-16) based on the first and second acceleration signals;

Means for generating a control signal (88, cool. 3, lines 31&32) corresponding to the relative acceleration (vibration, col. 3, lines 33-42; col. 3, line38-42); and

Means for controlling the flow of MR mount fluid in the mount responsive to the control signal (col. 8);

means for tuning the control system such that maximum damping of the relative acceleration across the mount occurs at and around the bounce resonance bounce frequency (cols. 8, 9) of the object.

Response to Arguments

10. Applicant's arguments filed 4/13/07 have been fully considered but they are all not persuasive.

Applicant's argument concerning double patenting with regard to US 2006/0173592 and 2003/0025255 are convincing. The double patenting rejections in view of the above references have been withdrawn. However, the double patenting rejection in view of reference 6754571 is retained be cause the claims therein are read over the claims or the present application. It is further noted that the claims in 6754571 are not the same as those of originally filed case 2003/0025255.

Applicant's argument in view of the enable rejection regarding fig. 3 is moot. The rejection has been withdrawn.

Applicant's argument with respect to the phrase, "maximum damping of relative acceleration" is not convincing because applicant does not provide the requisite degree for determining "maximum". Moreover, the term is a relative term.

Applicant's argument regarding the prior art is moot in view of a newly provided reference.

Conclusion

11. Applicant's amendment necessitated the new ground(s) of rejection presented in this Office action. Accordingly, **THIS ACTION IS MADE FINAL**. See MPEP § 706.07(a). Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a).

A shortened statutory period for reply to this final action is set to expire THREE MONTHS from the mailing date of this action. In the event a first reply is filed within TWO MONTHS of the mailing date of this final action and the advisory action is not mailed until after the end of the THREE-MONTH shortened statutory period, then the shortened statutory period will expire on the date the advisory action is mailed, and any extension fee pursuant to 37 CFR 1.136(a) will be calculated from the mailing date of the advisory action. In no event, however, will the statutory period for reply expire later than SIX MONTHS from the date of this final action.

Communication

12. Any inquiry concerning this communication or earlier communications from the examiner should be directed to Ronnie Mancho whose telephone number is 571-272-6984. The examiner can normally be reached on Mon-Thurs: 9-5.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Jack Keith can be reached on 571-272-6878. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see http://pair-direct.uspto.gov. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free). If you would like assistance from a USPTO Customer Service Representative or access to the automated information system, call 800-786-9199 (IN USA OR CANADA) or 571-272-1000.

Ronnie Mancho
Examiner
Art Unit 3663

June 29, 2007

JACK KEITH
SUPERVISORY PATENT EXAMINER